CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: PLANNING COMMISSION

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: February 3, 2004

COUNCIL DISTRICT: Citywide
SNI AREAS: All

SUBJECT: **PROPOSED ORDINANCE AMENDING TITLE 20, THE ZONING CODE, BY ADDING PROVISIONS TO STREAMLINE THE WILLIAMSON ACT CONTRACT CANCELLATION PROCESS**

RECOMMENDATION

Planning staff recommends that the Planning Commission forward to the City Council a recommendation to approve the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code to add provisions to authorize the Director of Planning, Building and Code Enforcement to make determinations and take actions on the cancellation or partial cancellation of Williamson Act contracts relating to prime agricultural land under certain circumstances.

BACKGROUND

As part of City Council's "Getting Families Back to Work" initiative, the Council directed staff to identify ways to simplify or streamline current permitting processes. This memorandum addresses the City Council's direction to streamline the Williamson Act contract cancellation process. Staff from the Department of Planning, Building and Code Enforcement and the City Attorney's Office has worked together in the preparation of this memo to respond to the direction of the City Council.

Passed by the State Legislature in 1965, the Williamson Act is an approach to keep agricultural land in productivity while reducing the property tax burden of these lands. A Williamson Act contract is a ten-year contract between a land owner and the City (or County, depending on the property location) for the preservation of the limited supply of prime farmlands in the State of California. In exchange for a reduced property valuation, the property owner agrees to keep their land in agricultural use for the ten-year period. Based on available data, there are approximately 54 Williamson Act contracts within the City limits, covering approximately 5,216 acres.

ANALYSIS

The Williamson Act contract process is detailed under State Government Code Section 51200 et seq. and includes the cancellation process (Government Code section 51280-51287). It identifies two processes by which a property owner in a Williamson Act contract may cancel a contract with the jurisdiction in which the property is located (either a City or a County).

The first type of cancellation is one in which a property owner can withdraw from a contract by filing a Notice of Non-Renewal, since these contracts have an initial term of ten years and are automatically renewed for an additional year on each annual anniversary. Upon City Council granting a tentative termination of the contract, the process takes a period of nine years to allow for full termination of the contract. The assessed valuation increases yearly until the end of nine years until it is assessed at full market value. At the end of nine years, the land can be used for non-agricultural purposes.

The second type of cancellation is immediate and occurs without the Notice of Non-Renewal and the timeframe to bring the property into full market assessment. However, this immediate cancellation involves a cancellation fee of 12.5% of the land's total fair market value, payable prior to granting of final cancellation. Upon cancellation, the property owner can immediately use their land for non-agricultural use.

Both processes currently require the City Council to grant a cancellation based on the required findings and other provisions outlined in the Government Code. The processing of applications for Williamson Act contracts, including cancellations, and associated administrative duties are carried out by the Planning Divisions prior to the City Council action/decision on a Williamson Act contract.

Per City Council direction to streamline the process, there is an interest to delegate the authority to make determinations regarding Williamson Act contract cancellations to the Director of Planning, Building and Code Enforcement. State law does not prohibit the City Council from delegating the authority to make determinations regarding contracts to an administrative officer.

The proposed ordinance would delegate most Williamson Act cancellation authority to the Director of Planning, Building and Code Enforcement, who would hold the public hearings and make appropriate cancellation findings instead of the Council. Under the proposed ordinance, the City Council would retain its authority to cancel contracts under two circumstances: (1) the property owner is requesting a reduction or waiver of the contract cancellation fee, or (2) the Director is not otherwise authorized to make a final environmental clearance determination under Title 21 of the City Municipal Code.

The proposed ordinance would not change the existing cancellation process and requirements established by State law. By authorizing the Director to cancel Williamson Act contracts, the processing time would generally be reduced by a couple of weeks. Adopting the proposed

changes to the Zoning Ordinance would serve to address the City Council's direction to streamline the existing process.

PUBLIC OUTREACH

Public hearing notices were either mailed or delivered to the Open Space Authority, Greenbelt Alliance, Santa Clara County Farm Bureau, County Assessor's Office, County Recorder's Office, County Executive Office, Local Area Formation Commission and California Agriculture Commissioner for the proposed Williamson Act contract cancellation process change. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's website.

COORDINATION

Preparation of this staff memorandum has been coordinated with the City Attorney's Office.

CEQA

Not a project.

                                        STEPHEN M. HAASE, DIRECTOR
                                        Planning, Building, and Code Enforcement

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